IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 7TH JUNE 2007 / 17TH JYAISHTA 1929

Crl.MC.No. 1739 of 2007()

CMP.4755/2006 of JUDL.MAGISTRATE OF FIRST CLASS-II (FOREST OFFENCES),PUNALUR

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PETITIONER: PETITIONER

SUMESH, S/O NARAYANAN, VELLAYILLKOTTIL VEEDU, ATTAVASERY MURI, KARIMPUZHA VILLAGE, OTTAPALAM.

BY ADV. SRI.G.BHAGAVAT SINGH

RESPONDENTS: COUNTER PETITIONER

THE STATE OF KERALA, REPRESENTED BY THE FOREST RANGE OFFICE, ANCHAL, IN OR 25/2006 REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTORSRI. S.U. NAZAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 07/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 1739 of 2007

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Dated this the 7th day of June, 2007

O R D E R

The petitioner claims to be the owner of a vehicle - Tata Sumo Car. That vehicle was allegedly involved in an attempt to illicitly transport sandalwood logs. The vehicle was intercepted. The vehicle and the contraband articles were seized and the accused were arrested. The petitioner was not arrested as he was not in the vehicle. He claims to be the owner of the vehicle as per an agreement. The petitioner applied for release of the vehicle. The learned Magistrate, by the impugned order, turned down the said request and dismissed the application. The petitioner claims to be aggrieved by that order. He has come to this Court with a prayer that there may be a direction to release the vehicle to him.

2. Notice was given. The learned Prosecutor submits that the confiscation proceedings under Section 61A of the Kerala Forest Act is contemplated. To a pointed query by this Court, the learned Prosecutor is not able to give any details of the confiscation

proceedings which has commenced. There is nothing to show that any notice has been issued to the petitioner.

3. Any criminal Court must imbibe the sense of expedition which is required as explained by the Supreme Court in **Sunderbhai Ambalal Desai** v. **State of Gujarat** (AIR 2003 SC 638), which frowned against retention of property in court and police station unnecessarily resulting in deterioration and loss for such property. I am satisfied that subject to appropriate conditions, the vehicle can be directed to be released to the petitioner.

4. This Crl.M.C. is accordingly allowed. The vehicle in question shall be released to the petitioner on the following terms and conditions.

(1) He shall produce all documents to satisfy the learned Magistrate that he is the owner entitled for possession of the vehicle.

(2) He shall execute a bond for an amount equal to the value of the vehicle as is ascertained and determined by the learned Magistrate in his discretion with two solvent sureties each for the like sum. I am not directing production of bank guarantee. But I expect the learned Magistrate to zealously ensure that the sureties offered are solvent and sufficient.

(3) The petitioner shall in the bond to be executed by him, specifically undertake to produce the vehicle before the authorised officer under Section 61A of the Kerala Forest Act as and when so directed.

5. Hand over copy of the order.

(R. BASANT)
Judge

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